

455B.448 Decision by commission.

1. The commission shall grant or deny the site license. In making its decision, the commission shall consider the following:

- a. The need for the services to be offered by the facility.
- b. The impact of the proposed facility on the area in which it is to be located.
- c. The zoning classification of the proposed site and the extent to which a proposed site is by present or projected use dedicated to industrial development.
- d. The land uses and the density of population in areas near the facility.
- e. The density of population in areas adjacent to probable transportation routes to the facility.
- f. The risk and effect of accidents during the transportation of hazardous wastes to the site.
- g. The geology of the site, where relevant, with reference to factors which include, but are not limited to, the presence of fault zones and the risk of contamination of ground and surface waters by leaching and runoff from the facility.
- h. The risk and effect of fires or explosions from improper storage and disposal methods.
- i. The impact of the facility on the operations and responsibilities of the city and county in which the facility is proposed to be located and on cities and counties near the proposed site.
- j. Local ordinances, permits, or other requirements and their relationship to the proposed facility.
- k. The availability of alternative sites and methods of treatment, disposal, or storage, including cost comparisons. The cost comparisons shall cover short and long-term costs including, but not limited to, liability insurance, postclosure maintenance, monitoring of ground and surface waters, monitoring of air before and after closure, and the potential loss of land or water resources due to contamination.

l. To the maximum extent feasible a site should be located away from all of the following areas:

- (1) Areas subject to natural hazards including, but not limited to, flooding, earthquakes, or subsidence.
- (2) Sources of drinking water supply including, but not limited to, reservoirs, lakes and rivers and their watersheds, and aquifers and their recharge areas.
- (3) Fragile land areas including, but not limited to, wetlands and the shorelines of rivers, lakes, and streams.
- (4) Areas with rare or valuable ecosystems or geologic formations or significant wildlife habitat.
- (5) Unique scenic or historic areas.
- (6) Residential areas, parks, or schools.
- (7) Prime farmland as defined by the United States department of agriculture in 7 C.F.R. § 657.5(a).

m. Other criteria adopted by rule which the commission finds relevant to the siting of a facility which are consistent with this part 6 of division IV.

2. The commission shall grant the license if it finds that the facility will meet the requirements imposed by rules adopted by the commission under section 455B.412, subsection 2, and the permit requirement of section 455B.415, that operation of the facility at the proposed location will be in the public interest, and that the public health and welfare and the environment will be adequately protected. The failure of the proposed facility to meet zoning requirements established under chapters 329, 335, and 414, and the licensing requirements of regulatory agencies except the requirements imposed by sections 455B.412, subsection 2, and section 455B.415 shall not preclude the commission from issuing the license and to that extent this subsection supersedes the licensing requirements of regulatory agencies and the requirements of chapters 329, 335, and 414.

3. A municipality as defined in section 670.1, subsection 2, is not liable in an action for damages arising out of the construction, operation, or maintenance of a hazardous waste facility which is licensed by the commission under this part 6 of division IV unless the municipality is responsible for or in control of the facility. However, a municipality may be subject to liability for damages caused by hazardous waste in connection with an act or

omission which would otherwise subject the municipality to liability. A municipality shall not be required to pay any portion of the costs associated with the response to a release or threatened release of a hazardous waste from a facility into the land, air, or water that threatens or may threaten human health or the environment unless the municipality is responsible for or in control of the facility or unless the municipality is otherwise subject to liability under this subsection.

[81 Acts, ch 152, §8]

86 Acts, ch 1149, §2